

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WICKIE TUTT, }
Petitioner, }
v. } Civil Action No. 08-255 Erie
PROSECUTOR'S OFFICE, et al., }
Respondents. }

MEMORANDUM ORDER

This habeas corpus action was received by the Clerk of Court on September 10, 2008 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 19], filed on November 13, 2009, recommended that the motion to dismiss filed by Respondents [Doc. No. 12] be granted and that the claims in the original petition be dismissed. The parties were allowed ten (10) days from the date of service to file objections. No objections were filed. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 1st day of December, 2009;

IT IS HEREBY ORDERED that the motion to dismiss filed by Respondents [Doc. No. 12] is GRANTED and the claims in the original petition are hereby DISMISSED.

The Report and Recommendation [Doc. No. 19] of Magistrate Judge Baxter, filed on November 13, 2009, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge